



March 14, 2012

Fethi Benjemaa
Department of Water Resources
901 P Street, Suite 313A
Sacramento, CA 95814

RE: Comments on revised draft agricultural water measurement regulation

Dear Mr. Benjemaa:

On behalf of the Pacific Institute and the Sierra Club California, which has more than 160,000 members and activists in California, we are writing to provide comments on the Department of Water Resources' (DWR) draft agricultural water measurement regulation. In response to the disapproval of the draft regulation by the Office of Administrative Law, the DWR and California Water Commission proposed several changes to the draft regulation, striking former section 597.1(i) and modifying section 597.3(b)(1)(B). As a result of these changes, Pacific Institute and the Sierra Club strongly recommend that the California Water Commission adopt the draft regulation.

In particular, the draft regulation that the California Water Commission approved last month substantially narrows the exemptions from the statutory requirement for farm gate measurement. The current language of section 597.3(b)(1)(B) does not allow exemptions from water measurement at the farm gate as a result of cost-effectiveness or cost, but allows water suppliers to determine the most cost-effective way to accurately measure the volume of water delivered at the farm gate. Thus, as currently drafted the exemption in 597.3(b)(1)(B) does not apply if one or more measurement devices (e.g., a high flow and low flow measurement device) can be used to meet the accuracy standard at the farm gate. This approach is consistent with the requirements of SB 7x 7 (the Water Conservation Act of 2009). In addition, the draft regulation eliminates the exemption for federal Central Valley Water Project contractors in section 597.1(i), which was inconsistent with the statutory requirements of SB 7x 7.

Accurate measurement of the volume of water delivered to customer farm gates is necessary to implement volumetric pricing as required by section 10608.48(b)(2) of the Water Code (part of SB 7x7). The change to section 597.3(b)(1)(B) should ensure that most if not all water suppliers



will accurately measure farm gate deliveries, and the change to section 597.1(i) ensures that all water supplies have documentation demonstrating the accuracy of their measurement devices. As currently drafted, the draft regulation appears consistent with SB 7x 7 and is necessary to implement the requirements of section 10608.48(b) of the Water Code.

We appreciate the hard work of the California Water Commission and the DWR to revise the regulation to be consistent with SB 7x 7. We strongly believe that this regulation will deliver on the promise of the Water Conservation Act of 2009.

Sincerely,

A handwritten signature in black ink that reads 'Juliet Christian-Smith'.

Dr. Juliet Christian-Smith
Senior Research Associate
Pacific Institute
[electronic signature]

A handwritten signature in black ink that reads 'Jim Metropulos'.

Jim Metropulos
Senior Advocate
Sierra Club California
[electronic signature]